



Guidance Document 17-02

Adopted June 15, 2017

This guidance document is advisory in nature but is binding on the Nebraska Real Property Appraiser Board ("Board") until amended or repealed by the Board. A guidance document does not include internal procedural documents that only affect the internal operations of the Board and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document (Neb. Rev. Stat. § 84-901.03 (2)).

SUBJECT: Software Specific Training

LEGAL REFERENCE: Neb. Rev. Stat. § 76-2236 (11) (Laws 2016, LB731, § 17);
298 NAC, Ch. 6, §§ 003.01A, 003.01N (2017)

SUMMARY OF ACTION

Approved by the Board at its July 19, 2016 meeting as Board Policy 16-01. Board Policy 16-01 was retired by the Board on May 24, 2017. Guidance Document 17-02 was adopted by the Board at its June 15, 2017 meeting as presented.

BACKGROUND

Excerpt from July 19, 2016 meeting of the Nebraska Real Property Appraiser Board: *Director Kohtz presented new Board Policy 16-01 concerning approval of software specific training as a continuing education activity to the Board for consideration. Attention was brought to the use of "meeting" on the second to last line. The Director acknowledged that this was a spelling error, and it should be "meet." The Director informed the Board that the error will be corrected. With no further discussion, Board Member Hynek made a motion to approve Board Policy 16-01 as amended. The motion was seconded by Langemeier, and carried with Bloxham, Hynek, Langemeier, Gutwein, and Woodle voting aye.*

LB 867, enacted by the Legislature in 2016, makes a number of changes to the rulemaking provisions of the Administrative Procedure Act [“APA”], Neb. Rev. Stat. §§ 84-901 to 84-918 (2014, and Cum. Supp. 2016). Agencies are authorized to issue “guidance documents,” which are defined to “mean any statement developed by an agency which lacks the force of law but provides information or direction of general application to the public to interpret or implement statutes or such agency’s rules or regulations.” Guidance documents are binding on an agency until amended by the agency, and shall not give rise to any legal right or duty or be treated as authority for any standard, requirement, or policy. Guidance documents replace the Nebraska Real Property Appraiser Board’s prior use of board policies to provide direction to the public, and to interpret or implement statutes and rules.

ANALYSIS

Board Policy 16-01, which was adopted by the Board on July 19, 2016, was retired by the Board on May 24, 2017 to implement the former board policy as a guidance document.

GUIDANCE

In accordance with Neb. Rev. Stat. § 76-2236 (11), any continuing education activity approved by the Board shall, as determined by the Board, protect the public and contribute to a credential holder’s development of appraiser related competency. An activity in which the primary purpose is training in the use of a specific software, and not utilization of a software to improve competency in appraisal practice; valuation methodology and/or techniques; market fundamentals, characteristics, conditions and analysis; real property concepts, characteristics and analysis; communication; computation; and/or legal considerations, does not meet the requirements for approval as a continuing education activity.